

Executive Registry

79-8598

24 October 1979

MEMORANDUM FOR: Director of Central Intelligence

FROM:

:

Special Assistant to the DCI

SUBJECT:

Authorities

*DCI has seen -
used in meeting
w/ Sec Def on 25 Oct.
JH.*

1. The attached statement is a brief rack-up of your authorities. You clearly have a broad and well-based authority to protect sources and methods, and you have a clear authority to establish special access programs for activities involving intelligence sources and methods.

2. None of these authorities expressly give you the right to determine billet ceiling or total accesses, although they can be interpreted to say that you have that authority. On the other hand, Executive Order 12065 can also be interpreted to mean that Agency heads have that same authority. The debate would keep staffs of lawyers engaged for full careers. As I have advised you before, I do not think it necessary or advisable to go to the mat on this question. As the [REDACTED] system is conscientiously implemented, the number of accesses will be directly reflective of the need to know among Community elements. Moreover, the annual revalidation exercise will give you a mechanism to monitor untoward changes in the number of accesses.

3. Rather than meet this issue head on, I would urge that you try two options:

a. Tell Secretary Brown that you are not going to mandate any billet ceilings and will let the workings of the system take care of that problem. On the basis of your personal assurance, there would then be no need to try to insert language into the [REDACTED] report or manuals.

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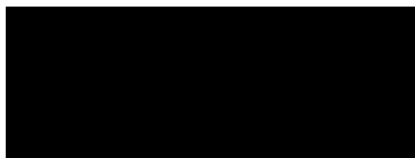
☐ DECL ☒ REVW ON 24 Oct 1985

EXT BYND 6 YRS BY

CONFIDENTIAL

b. If a. is not acceptable, then agree that language will be inserted into the report saying that billet ceilings are not being established and that the number of accesses would be determined by SIO certifications. (This language would be drafted so that it would not be an irrevocable commitment on your part that there would never be a ceiling established.)

4. All paragraphs in this memorandum are classified CONFIDENTIAL.



25X

Attachment

cc: DDCI

Authorities

Under the National Security Act of 1947, as amended, the DCI is responsible for protecting intelligence sources and methods from unauthorized disclosure. 50 U.S.C.A. 403 (d) 3.

Executive Order 12036, 26 June 1978, provides that the DCI:

Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products.

An expression of the standards called for in Executive Order 12036 has been promulgated as DCID 1/14 which governs eligibility for access to sensitive compartmented information. This DCID was developed pursuant to the authorities granted in NSCID No. 1, 17 February 1972, which provides in Section 3 that:

The DCI shall develop and review security standards and practices as they relate to the protection of intelligence and of intelligence sources and methods from unauthorized disclosure.

NSCID No. 1, however, also provides that each Department and Agency head will remain responsible for protecting intelligence and intelligence sources and methods within its own organization. This would indicate that the DCI has general authority for protecting sources and methods, but that the Department and Agency heads have a localized management authority.

NSCID No. 6, 17 February 1972, provides that the DCI shall:

Develop and establish policies and procedures for the protection of SIGINT, including the degree and type of security protection to be given to SIGINT activities through the protection of information about them or derived from them.

The authority granted in NSCID No. 6 is given to the DCI even though the Secretary of Defense is the executive agent for SIGINT and the Director, NSA, has specific responsibilities for the protection, transmission, handling, and distribution of SIGINT material.

The DCI has explicit responsibility for the TK control system by a Presidential Directive of 26 August 1960.

25X1A Security policy for the [REDACTED] control system is an explicit responsibility of the DCI by formal agreement by the DCI and the Deputy Secretary of Defense, dated 2 May 1962.

25X1A The COMINT world is ruled by [REDACTED] communications intelligence agreement of 1946 which has been implemented by a series of NSCIDs. These NSCIDs are further implemented by the communications intelligence security regulations which are issued by the Director of Central Intelligence.

Executive Order 12065 delegates expressly to the DCI the authority to create special access programs for matters pertaining to intelligence sources and methods.

In none of these statements of authorities is there any express provision that the DCI or anyone else will control the numbers of personnel given access to SCI materials. An inferential case may be made on the basis that one of the tests for creating a special access program is that "the number of persons who will need access will be reasonably small and commensurate with the objective of providing extra protection for the information involved" (Executive Order 12065, Section 4-202).

Executive Order 12065 also provides further that Agency heads shall review all existing special access programs under their jurisdiction and establish and maintain a system of accounting for special access programs (4-204). This provision could be interpreted to mean that the programs maintained within the APEX systems are under your jurisdiction and that your responsibility to maintain a system of accounting gives you authority to control the numbers of access granted under the APEX program. Others would argue that these controls have been delegated to SIOs and program managers.

[REDACTED]
1800, 24 Oct 79

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CUBA

You may want to note to SECDEF

[REDACTED]

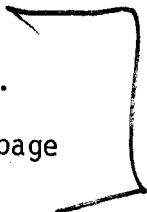
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in response to his query.

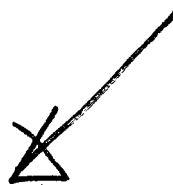
Response to SECDEF Questions

- Sov campaign ag TNF modernization
(copy provided for Brown) TAB A
- Secretiveness of Soviets in Cuba TAB C

Note to SECDEF that NFAC is working on "Dissatisfaction with Sov. Mil. Aid & possible US exploitation" but in interim hand him the NFAC memo on "Soviet Mil. Aid to 3rd World" as well as the one-page handout noted in TAB A.



Brief SECDEF on MBFR



(Your talking points follow)

TOP SECRET [REDACTED]

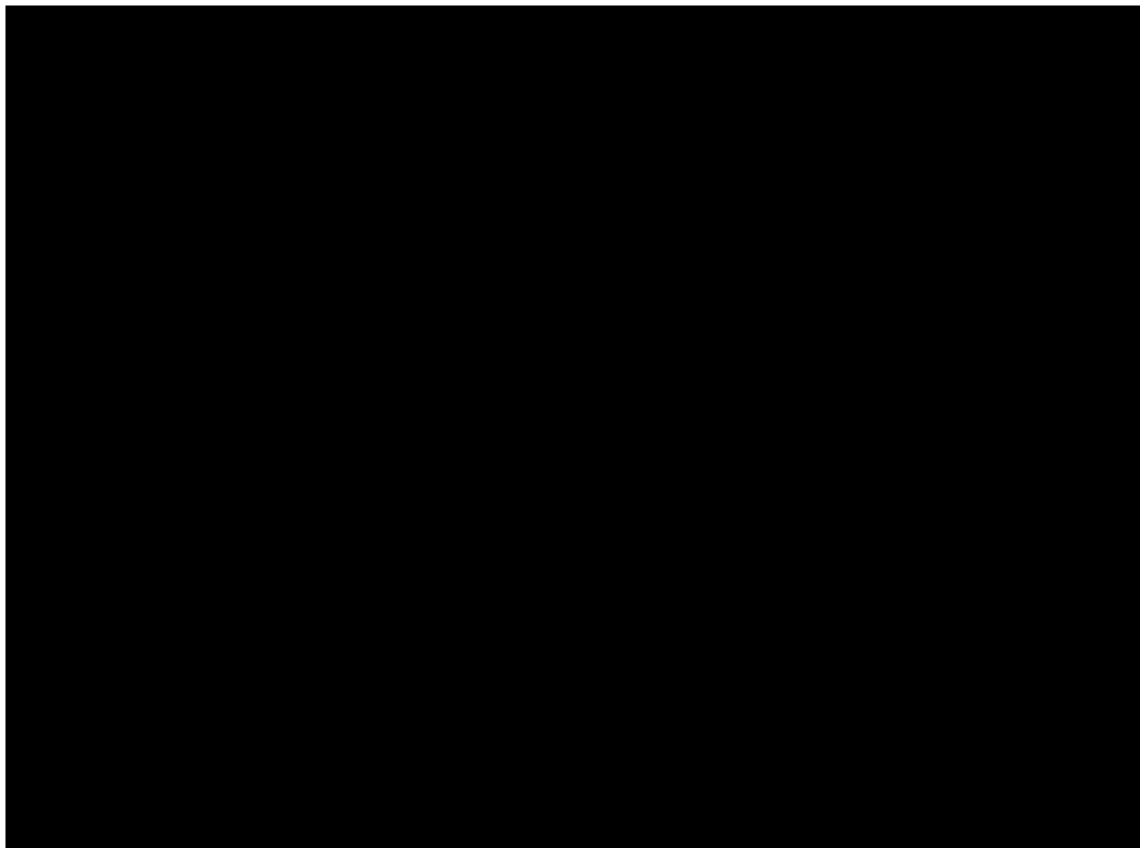
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DCI Notes
21 September 79

MBFR

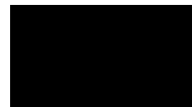
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Hold tight

*As of 24 Oct. nothing new has
been received on this topic so
your talking points should still
be current.*



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